

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.5364 of 1998

Between:

SK. Rahman S/o. Mqdar Saheb
R/o. Nalgonda District.

..... PETITIONER

AND

- 1 The Presiding Officer, Industrial Tribunal-Cum-Labour Court,
Warangal.
- 2 The Depot Manager, A.P.S.R.T.C., Bhadrachalam Depot,
Khammam District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Certiorari and after calling for the records from the 1st Respondent, quash the Award in I.D.No. 251/93, dt. 26.2.1997 in so far as it relates to denial of back wages and forfeiting two annual increments cumulative effect is concerned, and consequently direct the 2nd Respondent to Award back wages and restore the two annual increments to the petitioner.

Counsel for the Petitioner: Mr. G. RAVI MOHAN

Counsel for the Respondent No.2:SMT. P. RAJANI REDDY

The Court made the following :

ORAL ORDER:

This Writ Petition is filed by the workman being aggrieved by the Award dated 26-2-1997 passed in I.D.No.251 of 1993 on the file of the Industrial Tribunal-cum-Labour Court, Warangal insofar as denying the back wages and also further imposing a punishment of forfeiting of two annual increments with cumulative effect is concerned.

It is the case of the petitioner that he was appointed as a Conductor in the respondent-Corporation on 6-2-1979. While so, due to ill-health, he could not attend duty on 3-2-1989. However, he reported for duty on 6-2-1989 with a fitness certificate. But, the 2nd respondent prevented him from joining duty and thereafter issued a charge sheet dated 29-7-1989. Though he submitted explanation, the same was not accepted and a detailed enquiry was ordered into the matter. The Enquiry Officer submitted a report holding him guilty of the charges. On the basis of the report of the Enquiry Officer, the removal order dated 19-7-1990 was passed. Further, he filed an appeal, but the same was also dismissed. Having no other option, he raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 and the same was taken on file in I.D.No.251 of 1993 by the Industrial Tribunal-cum-Labour Court, Warangal. Though the Labour Court found that the charges are proved, it was held that the punishment imposed is disproportionate to that of the misconduct proved and, therefore, directed his reinstatement with continuity of service, but without any back wages and further imposing the punishment of stoppage of two annual grade increments with cumulative effect. Hence, this Writ Petition.

A detailed counter affidavit has been filed by the 2nd respondent denying the

allegations made by the petitioner. It is *inter alia* asserted that the Labour Court itself has taken a lenient view of the matter and passed an Award in favour of the petitioner and the same is just, proper and does not call for interference of this Court under Article 226 of the Constitution of India for granting any further relief in favour of the petitioner.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material made available on record including the impugned Award.

At the outset, I am of the opinion that the Labour Court has not committed any error in holding that the charges framed against the petitioner were proved in full. However, the Labour Court found that the punishment of removal from service was disproportionate to that of the misconduct of absenteeism and directed his reinstatement with continuity of service, but without any back wages. While doing so, the Labour Court further imposed the punishment of forfeiting of two annual increments with cumulative effect.

The learned counsel for the petitioner contended that the Labour Court while denying the back wages and other benefits ought not to have directed the management to impose further punishment of stoppage of two increments with cumulative effect, which will have severe financial consequences against the petitioner.

In the facts and circumstances of the case, I am in agreement with the contention of the learned counsel for the petitioner. However, the punishment imposed by the Labour Court is modified to be read as imposing of stoppage of two increments without cumulative effect; but, the petitioner is not entitled for any arrears, in view of the fact that the punishment imposed is without cumulative effect. Respondent-Corporation is directed to restore the two increments of the petitioner with effect from 1-9-2005 only.

Accordingly, the Writ Petition is disposed of. No order as to costs.

09-8-2005

prk

